

112TH CONGRESS  
1ST SESSION

# S. 627

To establish the Commission on Freedom of Information Act Processing  
Delays.

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IN THE SENATE OF THE UNITED STATES

MARCH 17, 2011

Mr. LEAHY (for himself, Mr. CORNYN, Mr. WHITEHOUSE, and Mr. TESTER)  
introduced the following bill; which was read twice and referred to the  
Committee on the Judiciary

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## A BILL

To establish the Commission on Freedom of Information  
Act Processing Delays.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. COMMISSION ON FREEDOM OF INFORMATION**

4               **ACT PROCESSING DELAYS.**

5       (a) SHORT TITLE.—This Act may be cited as the  
6       “Faster FOIA Act of 2011”.

7       (b) ESTABLISHMENT.—There is established the Com-  
8       mission on Freedom of Information Act Processing Delays  
9       (in this Act referred to as the “Commission” for the pur-  
10      pose of conducting a study relating to methods to help

1 reduce delays in processing requests submitted to Federal  
2 agencies under section 552 of title 5, United States Code  
3 (commonly referred to as the “Freedom of Information  
4 Act”).

5 (c) MEMBERSHIP.—

6 (1) IN GENERAL.—The Commission shall be  
7 composed of 16 members of whom—

8 (A) 3 shall be appointed by the chairman  
9 of the Committee on the Judiciary of the Sen-  
10 ate;

11 (B) 3 shall be appointed by the ranking  
12 member of the Committee on the Judiciary of  
13 the Senate;

14 (C) 3 shall be appointed by the chairman  
15 of the Committee on Government Reform of the  
16 House of Representatives;

17 (D) 3 shall be appointed by the ranking  
18 member of the Committee on Government Re-  
19 form of the House of Representatives;

20 (E) 1 shall be appointed by the Attorney  
21 General of the United States;

22 (F) 1 shall be appointed by the Director of  
23 the Office of Management and Budget;

24 (G) 1 shall be appointed by the Archivist  
25 of the United States; and

1 (H) 1 shall be appointed by the Comp-  
2 troller General of the United States.

3 (2) QUALIFICATIONS OF CONGRESSIONAL AP-  
4 POINTEES.—Of the 3 appointees under each of sub-  
5 paragraphs (A), (B), (C), and (D) of paragraph (1)  
6 at least 2 shall have experience in academic research  
7 in the fields of library science, information manage-  
8 ment, or public access to Government information.

9 (3) TIMELINESS OF APPOINTMENTS.—Appoint-  
10 ments to the Commission shall be made as expedi-  
11 tiously as possible, but not later than 60 days after  
12 the date of enactment of this Act.

13 (d) STUDY.—The Commission shall conduct a study  
14 to—

15 (1) identify methods that—

16 (A) will help reduce delays in the proc-  
17 essing of requests submitted to Federal agen-  
18 cies under section 552 of title 5, United States  
19 Code; and

20 (B) ensure the efficient and equitable ad-  
21 ministration of that section throughout the  
22 Federal Government;

23 (2) examine whether the system for charging  
24 fees and granting waivers of fees under section 552

1 of title 5, United States Code, needs to be reformed  
2 in order to reduce delays in processing requests; and

3 (3) examine and determine—

4 (A) why the Federal Government's use of  
5 the exemptions under section 552(b) of title 5,  
6 United States Code, increased during fiscal  
7 year 2009;

8 (B) the reasons for any increase, including  
9 whether the increase was warranted and wheth-  
10 er the increase contributed to FOIA processing  
11 delays;

12 (C) what efforts were made by Federal  
13 agencies to comply with President Obama's  
14 January 21, 2009 Presidential Memorandum on  
15 Freedom of Information Act Requests and  
16 whether those efforts were successful; and

17 (D) make recommendations on how the use  
18 of exemptions under section 552(b) of title 5,  
19 United States Code, may be limited.

20 (e) REPORT.—Not later than 1 year after the date  
21 of enactment of this Act, the Commission shall submit a  
22 report to Congress and the President containing the re-  
23 sults of the study under this section, which shall include—

24 (1) a description of the methods identified by  
25 the study;

1           (2) the conclusions and recommendations of the  
2       Commission regarding—

3                   (A) each method identified; and

4                   (B) the charging of fees and granting of  
5       waivers of fees; and

6           (3) recommendations for legislative or adminis-  
7       trative actions to implement the conclusions of the  
8       Commission.

9       (f) STAFF AND ADMINISTRATIVE SUPPORT SERV-  
10   ICES.—The Archivist of the United States shall provide  
11   to the Commission such staff and administrative support  
12   services, including research assistance at the request of  
13   the Commission, as necessary for the Commission to per-  
14   form its functions efficiently and in accordance with this  
15   section.

16       (g) INFORMATION.—To the extent permitted by law,  
17   the heads of executive agencies, the Government Account-  
18   ability Office, and the Congressional Research Service  
19   shall provide to the Commission such information as the  
20   Commission may require to carry out its functions.

21       (h) COMPENSATION OF MEMBERS.—Members of the  
22   Commission shall serve without compensation for services  
23   performed for the Commission.

24       (i) TRAVEL EXPENSES.—The members of the Com-  
25   mission shall be allowed travel expenses, including per

1 diem in lieu of subsistence, at rates authorized for employ-  
2 ees of agencies under subchapter I of chapter 57 of title  
3 5, United States Code, while away from their homes or  
4 regular places of business in the performance of services  
5 for the Commission.

6 (j) TRANSPARENCY.—All meetings of the Commis-  
7 sion shall be open to the public, except that a meeting,  
8 or any portion of it, may be closed to the public if it con-  
9 cerns matters or information described in chapter 552b(c)  
10 of title 5, United States Code. Interested persons shall be  
11 permitted to appear at open meetings and present oral or  
12 written statements on the subject matter of the meeting.  
13 The Commission may administer oaths or affirmations to  
14 any person appearing before the Commission.

15 (k) TERMINATION.—The Commission shall terminate  
16 30 days after the submission of the report under sub-  
17 section (e).

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